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**SF 2267** – Racial Profiling (LSB5787SV)

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Fiscal Note Version – New

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**Description**

**Senate File 2267** standardizes the collection, compilation, and reporting of law enforcement officer stop and complaint data. The bill also provides for officer training, creates a Community Policing Advisory Board (CPAB), and provides for penalties.

**Background**

This bill directs the Attorney General (AG) to establish a CPAB. This board is to be racially and ethnically diverse, gender-balanced, and consist of 15 voting and two ex officio, nonvoting members. The AG is to provide staff for the CPAB. Members of the CPAB will not receive per diem, but will receive reimbursement for necessary travel and actual expenses. The CPAB is tasked with doing the following by April 1, 2017:

- Adopt rules pursuant to **Chapter 17A**.
- Develop a standard notice form for each individual stopped by a law enforcement (LE) officer. This notice will inform the individual being stopped of their right to file a complaint with the Iowa Civil Rights Commission (ICRC) if they believe they have been a victim of profiling.
- Advise the AG regarding the development of guidelines for the collection, compilation, and reporting of traffic, bicycle, and pedestrian stop data.
- Evaluate and comment on the data compiled and reported to the AG, and the analysis of this data by the Juvenile Justice Planning Division (CJJP) of the Department of Human Rights.
- Assess the collection, compilation, and reporting of the traffic, bicycle, and pedestrian stop data by LE agencies, the effectiveness of LE training, and determine if these activities can be improved or made more effective.
- Work with state and local LE agencies to review and analyze profiling across geographic areas of Iowa.
- Consult available evidence-based research on intentional and implicit biases, and the impact on LE stop, search, and seizure tactics.
- Issue an annual report providing the CPAB analysis, required Board activities, and detailed findings regarding the past and current status of profiling and other discriminatory practices. This report is to include each reporting LE agency's total results for data collection criteria for the year. The report is to be issued by February 1 each year beginning in 2018.
- Hold at least three annual public meetings to discuss profiling and potential reforms to prevent profiling.

Every LE agency is required to collect, compile, and report annually to the AG on a standardized form the following information on each traffic, bicycle, or pedestrian stop:

- Time, date, location, and duration of the stop.
- Reason for the stop.
- Results of the stop.
- Warning given or citation issued, if applicable.
- Offense the individual was arrested for, if applicable.

- Identifying characteristics of the individual stopped (taken from the individual's driver's license or other ID card), including:
  - Perceived race
  - Ethnicity
  - English language proficiency
  - Sex
  - Approximate age
- Actions taken by an officer during the stop, including:
  - Whether the officer asked for consent to search the individual, and whether consent was provided.
  - Whether the officer searched the individual or any property, the basis for any search, the scope and duration of the search, and the type of contraband or evidence discovered in the search.
  - Whether the officer seized any property, along with a complete description of the property, and the basis for seizing it.
  - Whether the officer used physical force or physical force was used against the officer, and a description of the extent the force was used.
  - Whether the search involved the use of a canine or advanced technology.
- Other information considered appropriate.

Each LE agency is also required to report annually to the AG the total number of citizen complaints received by the LE agency or a citizen's review board that alleges misconduct by an officer. The information reported must include:

- All citizen complaints received by the LE agency alleging criminal conduct by officers.
  - All citizen complaints received by a LE agency alleging profiling by officers, categorized by race, color, ethnicity, religion, national origin, gender identity or expression, sexual orientation, English language proficiency, or mental or physical disability.
  - All citizen complaint dispositions including sustained, exonerated, not sustained, unfounded.
- If a LE agency is noncompliant with the collection, compilation and reporting duties, the AG shall take necessary action to secure compliance.

The AG will adopt rules as follows:

- Require each LE agency to collect, compile, and report data to the AG.
- Require each LE agency to prominently publicize the data on at least a monthly basis.
- Require each LE agency to maintain all data for at least 4 years.
- Protect the privacy of any personal identifying information about the officer or the individual stopped.

The AG is also required to provide guidelines recommending best practices to alleviate profiling.

Each LE agency is required to provide annual training to officers on issues related to profiling prevention, data collection, and reporting methods. Every officer in the state must participate in annual training. The Iowa Law Enforcement Academy (ILEA) is required to disseminate training guidelines for all officers. The training guidelines must include:

- An emphasis on officer understanding and respect of diverse communities, and the importance of effective, noncombative methods of carrying out LE activities in a diverse community.
- Instruction on diverse communities to foster mutual respect and cooperation between LE and members of all diverse communities.
- An examination of the patterns, practices, and protocols that cause profiling, and the tools to prevent such actions.

- An examination and identification of key indices and perspectives that make up differences among residents in a local community.
- Instruction on implicit bias and consideration of the negative impact of bias, including how historical perceptions of profiling have harmed community relations.
- Instruction on the perspectives of diverse local constituency groups from experts on particular cultural and LE-community relations issues in a local area.
- A presentation of the history and role of the civil rights movement, and the impact on LE.
- Instruction about the prohibition of profiling and each officer's specific obligations to prevent, report, and respond to profiling by fellow officers and to comply with the collection, compilation, and reporting responsibilities.

An officer or employee of a LE agency that retaliates against an officer or employee that files a report of an occurrence of profiling against an officer commits a simple misdemeanor.

### **Correctional Impact**

This bill creates a new crime, and there is no historical information available to determine the possible correctional impact. The average state cost for one serious misdemeanor conviction ranges from \$220 to \$5,800. For additional information, refer to the Legislative Services Agency (LSA) [Correctional Impact Statements Memo](#) dated February 18, 2016.

### **Minority Impact**

It is not possible to estimate a minority impact at this time. Refer to the LSA [Minority Impact Statements Memo](#) dated January 26, 2016, for information related to minorities in the criminal justice system.

### **Fiscal Impact**

The fiscal impact cannot be determined at this time, but is likely to be significant. The LSA will continue to work with state agencies and representatives of local law enforcement agencies to analyze the potential fiscal impact. The bill may contain a state mandate as defined in Code section [25B.3](#).

/s/ Holly M. Lyons

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March 8, 2016

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The fiscal note for this bill was prepared pursuant to [Joint Rule 17](#) and the Iowa Code. Data used in developing this fiscal note is available from the Fiscal Services Division of the LSA upon request.

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